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9 Tax Accountants for Receiver  
10 Thomas C. Hebrank

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13 SOUTHERN DIVISION

14 SECURITIES AND EXCHANGE  
15 COMMISSION,

16 Plaintiff,

17 vs.

18 LOUIS V. SCHOOLER and FIRST  
19 FINANCIAL PLANNING  
20 CORPORATION d/b/a WESTERN  
21 FINANCIAL PLANNING  
22 CORPORATION,

23 Defendants.

Case No. 3:12-cv-02164-GPC-JMA

**FINAL APPLICATION FOR  
APPROVAL OF PAYMENT OF  
FEES TO DUFFY  
KRUSPODIN, LLP, AS TAX  
ACCOUNTANTS FOR RECEIVER**

Date: October 1, 2021  
Time: 1:30 p.m.  
Ctrm: 2D  
Judge: Hon. Gonzalo P. Curiel

Duffy, Kruspodin, LLP ("Duffy"), tax accountants for Thomas C. Hebrank ("Receiver"), Court-appointed receiver for First Financial Planning Corporation d/b/a Western Financial Planning Corporation ("Western"), and its subsidiaries and the General Partnerships listed in Schedule 1 to the Preliminary Injunction Order entered on March 13, 2013 (collectively, "Receivership Entities"), hereby submits this final application for approval of and payment of professional fees for work in preparing the 2019 and 2020 work in process federal and state tax returns for Western and WFP Receivership QSF Trust ("WFP Receivership").

Duffy seeks approval of the total fees and costs incurred for the receivership in the amount of \$1,010,536.47, which includes the following:

- Approval and payment of fees incurred during the period from January 1, 2020, through May 31, 2021 ("Final Application Period") of \$8,666.30;
- Final approval of Duffy's eleven interim fee applications<sup>1</sup> and of the \$982,620.17 (\$910,926.87 of fees and \$71,693.30 of expenses) previously paid in connection with those applications; and
- Approval of estimated fees and costs of up to \$19,250 for remaining tax work to conclude the receivership.

## I. OVERVIEW

The Temporary Restraining Order ("TRO") and the Preliminary Injunction Order vests the Receiver with authority to employ professionals to assist in his efforts. TRO, Dkt. No. 10, Part VII.C. and G; Preliminary Injunction, Dkt. No. 174, Part III.C. and G. Pursuant to that authority, the Receiver engaged Duffy as tax accountants to provide tax advice and prepare tax returns for the Receivership Entities.

<sup>1</sup> Duffy's eleven interim fee applications, along with bills reflecting the work performed during each period can be found at Dkt. Nos. 202, 568, 820, 1098, 1128, 1331, 1523, 1560, 1655, 1692, and 1760 and are incorporated herein by this reference.

## II. FINAL FEE APPLICATION PERIOD

The fees incurred by Duffy during the Final Application Period total \$8,666.30. Detailed descriptions of the services rendered by entity are contained in Exhibit A attached hereto. Exhibit B is a summary of Duffy staff total hours and corresponding rates. During the Application Period, Duffy spent 39.6 hours on behalf of the Receiver at an overall blended billing rate of \$218.85 per hour. Duffy has discounted all fees by ten percent (10%) from regular hourly billing rates as they were in 2017.

Duffy spent time during the Application Period in the following categories:

A. Preparation of 2019 and 2020 Income Tax Returns for Western

B. Preparation of 2019 and 2020 Income Tax Return for WFP  
Receivership

### A. Preparation of 2019 and 2020 Income Tax Returns for Western

#### 1. General Engagement Services

Time in this category pertains to general communication and meetings for the 2019 and 2020 engagement. Duffy was in contact with the Receiver through phone calls and emails with the purpose of establishing the engagement and to agree upon procedures and reporting timelines. Furthermore, various other emails and phone calls were exchanged between Duffy and the Receiver regarding engagement timing, status, and special circumstances arising from the receivership.

#### 2. Preparation of 2019 and 2020 Form 1096 and 1099 Informational Returns

The work in this category involves the preparation of the annual Forms 1096 and 1099s for all as required by tax law. The time spent included the following:

- a) verifying accounting fees in comparison to the Western records for 1099 reporting;

- b) input of the 2019 and 2020 Form 1099 amounts and verifying all other informational data included on the form, such as names, addresses, and ID numbers for the receivership entities;
- c) reviewing 1099 recipient's names, addresses, and ID numbers;
- d) and electronic filing of the 1099s for the receivership entities;

3. Preparation 2019 and 2020 Income Tax Returns for Western

Time in this category was spent preparing the income tax returns as follows:

- a) processing the initial receipt of the Western books and records;
- b) formatting and organizing the files with the current year data;
- c) verifying cash receipts and disbursements for the year and scanning detail for reporting accuracy and consistency;
- d) checking balance sheet account balances variances compared to prior year;
- e) reviewing input sheets of information entered into tax software;
- f) manager level review of the above areas, as well as, overall review of tax return forms and input;
- g) manager level verification of reporting accuracy, formatting, and adherence to current federal and state corporate tax laws;
- h) staff and manager communication as needed to answer return discrepancies or additional information needed to complete the tax return;
- i) partner level review of the above areas, as well as, overall review of tax return forms and input;
- j) partner level verification of reporting accuracy, formatting, and adherence to current federal and state partnership tax laws;
- k) finalizing of tax return and accompanying letters and schedules

- l) printing tax return copies for each of the receivership entities and for government filing;
- m) electronic filing of the 2019 and 2020 corporate returns; and
- n) printing acceptance letters for the tax files to verify successful submittal and receipt by government agencies.

	Hours	Fees	Average Hourly Rate
TOTAL	4.4	\$ 827.10	\$ 187.98

**B. Preparation 2019 and 2020 Work in Process Income Tax Return for WFP Receivership**

Time in this category was spent preparing the income tax return as follows:

- a) processing the initial receipt of the WFP Receivership books and records;
- b) formatting and organizing the files with the current year data;
- c) verifying cash receipts and disbursements for the year and scanning detail for reporting accuracy and consistency;
- d) verifying balance sheet account balances for reporting purposes and tracking for file;
- e) reviewing input sheets of information entered into tax software;
- f) partner level review of the above areas, as well as, overall review of tax return forms and input;
- g) partner level verification of reporting accuracy, formatting, and adherence to current federal and state tax laws;
- h) finalizing of tax return and accompanying letters and schedules;
- i) printing tax return copies for the receivership entity and for government filing; and

j) sending paper filing of the 2019 return to receiver for signature and mailing.

	<b>Hours</b>	<b>Fees</b>	<b>Average Hourly Rate</b>
<b>TOTAL</b>	35.2	\$ 7,839.20	\$ 222.70

### **III. APPROVAL OF PRIOR INTERIM FEE APPLICATIONS**

Duffy respectfully requests that the Court grant final approval of its eleven interim fee applications, which fees and costs were paid on an interim basis, pursuant to orders of the Court, as follows:

<b>FEE APPLICATION</b>	<b>FEES PAID</b>	<b>COSTS PAID</b>
First	\$78,050.12	\$7,016.89
Second	\$23,844.04	\$0.00
Third	\$92,854.89	\$6,994.99
Fourth	\$22,843.48	\$0.00
Fifth	\$103,874.40	\$14,895.24
Sixth	\$135,207.00	\$15,108.77
Seventh	\$180,528.75	\$13,597.08
Eighth	\$36,622.07	\$0.00
Ninth	\$189,096.66	\$14,080.33
Tenth	\$37,490.22	\$0.00
Eleventh	\$10,515.24	\$0.00
<b>TOTAL</b>	<b>\$910,926.87</b>	<b>\$71,693.30</b>

### **IV. ESTIMATED FEES FOR REMAINING TAX WORK**

Duffy requests that the Court approve payment of up to \$19,250 in fees for remaining tax work to close the receivership. This work includes completing the 2020 tax returns for Western and WFP Receivership (which are already in process), preparing 2021 tax returns, and preparing final tax returns, which are expected to be needed in early 2022 (once the proposed final distribution to investors has been completed).

**V. THE REQUESTED FEES ARE REASONABLE AND SHOULD BE ALLOWED**

In its Order Granting in Part First Interim Fee Applications, the Court analyzed the case law regarding approval of interim fee applications in regulatory receiverships and determined that the following factors should be considered: (1) the complexity of the task; (2) the fair value of the time, labor, and skill measured by conservative business standards; (3) the quality of work performed, including the results obtained and the benefit to the receivership estate; (4) the burden the receivership estate may safely be able to bear; and (5) the Commission's opposition or acquiescence.

**A. Complexity of Tasks**

Duffy's preparation of Western and WFP Receivership's tax returns are considered complex in nature. The complexity lies in the QSF tax return reporting for the Western entities. The volume has decreased from prior years due to the finalization of the partnership returns. As a result, there is less time spent for the 2019 and 2020 tax returns.

**B. Fair Value of Time, Labor & Skill**

There are various levels of staff that worked on the engagement. For this fee application, the firm's 2017 rates were used for all staff levels. Thane F. Kelton, CPA, the partner on the engagement, was billed at an hourly rate of \$400, Livia Benjamin, CPA, the manager on the engagement, was billed at an hourly rate of \$255, Andra Antwan, CPA, Baldev Chhokar, Douglas Shaw, Inessa Stysis, CPA, and Jackson Pranskevich, the staff preparers on the engagement, were billed at an hourly rate ranging from \$125 to \$150. The remaining administrative staff that worked on the engagement were billed at a rate of \$70. These rates represent typical rates in California for CPAs of similar experience and expertise for the 2017 year. All compensation based on billing rates was discounted by ten percent (10%). The

1 blended hourly rate for all services provided by Duffy during the Application Period  
 2 is \$218.85. A summary of Duffy staff that worked on the engagement is included as  
 3 Exhibit B.

4 **C. Quality of Work Performed**

5 Duffy has provided the client with quality tax preparation and ancillary  
 6 services, with a high level of professionalism and excellent customer service. Duffy  
 7 worked diligently to ensure timely filing and was prompt in its completion of all of  
 8 the returns for 2019 and 2020, as applicable, as they were received during one of the  
 9 busiest times of year. Duffy was able to complete the corporate tax returns for 2019  
 10 and 2020, guaranteeing compliance with government agencies.

11 **D. Receivership Estate's Ability to Bear Burden of Fees**

12 The receivership estate is currently holding approximately \$5,460,284 in  
 13 cash, so the estate has the ability to pay the requested fees.

14 **E. Commission's Opposition of Acquiescence**

15 Prior to filing, Duffy, through the Receiver's counsel, provided this fee  
 16 application to counsel for the Commission in substantially final form. Counsel for  
 17 the Commission advised that the Commission has no opposition to the fees  
 18 requested.

19 Accordingly, the five considerations identified by the Court for considering  
 20 interim fee applications all support interim approval and payment of the requested  
 21 fees and costs.

22 **VI. CONCLUSION**

23 Duffy has ensured that Western and WFP Receivership have been able to  
 24 fulfill their responsibilities to the federal and state governments with respect to their  
 25 tax filings.

26 Duffy therefore respectfully requests this Court enter an Order:  
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- 1           1.     Approving the Duffy's total fees and costs for the receivership in the
- 2 amount of \$1,010,536.47, including:
- 3           a.     Approval and authority to pay fees of \$8,666.30 for the Final
- 4                     Application Period;
- 5           b.     Approval, on a final basis of the \$982,620.17 (\$910,926.87 of
- 6                     fees and \$71,693.30 of expenses) paid to Duffy pursuant to its
- 7                     eleven interim fee applications; and
- 8           c.     Approval and authority to pay projected fees and costs from the
- 9                     reserve in the amount of up to \$19,250 to complete remaining tax
- 10                    work to conclude the receivership; and
- 11          2.     Granting such other and further relief as the Court deems appropriate.

12 Dated: July 19, 2021

13 By:   
 14 THANE F. KELTON, CPA  
 15 DUFFY KRUSPODIN, LLP  
 16 Certified Public Accountants  
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